United Nations E/CN.7/2016/L.2

Economic and Social Council

Distr.: Limited
25 January 2016

Original: English

Commission on Narcotic Drugs
Fifty-ninth session
Vienna, 14-22 March 2016
Item 5 of the provisional agenda*
Implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem: follow-up to the high-level review by the Commission on Narcotic Drugs, in view of the special session of the General Assembly on the world drug problem to be held in 2016

Netherlands: draft resolution**

Application of the principle of proportionality in implementing drug control policies

The Commission on Narcotic Drugs,

Recalling that the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol[1] and the Convention on Psychotropic Substances of 1971[2] establish the health and welfare of mankind as the overarching aim of international drug control,

Recalling also that the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988[3] includes the principle of proportionality of sentencing, a universal maxim of criminal law, in distinguishing between offences that are "particularly serious" and offences of a minor nature and permits States parties to provide alternatives to conviction or punishment for drug-related offences of a minor nature and for offenders who are dependent on drugs, such as measures of treatment, education, aftercare, rehabilitation and social reintegration,

* E/CN.7/2016/1.
** On behalf of the States Members of the United Nations that are members of the European Union.
[1] United Nations, *Treaty Series*, vol. 976, No. 14152.
[2] Ibid., vol. 1019, No. 14956.
[3] Ibid., vol. 1582, No. 27627.

Please recycle

Recognizing that the 1988 Convention requires States parties to ensure that their courts and competent authorities can take into account factual circumstances that make the commission of offences particularly serious, such as the use of violence or the victimization of minors,[4]

Recalling Commission on Narcotic Drugs resolution 58/5 of 17 March 2015, entitled "Supporting the collaboration of public health and justice authorities in pursuing alternative measures to conviction or punishment for appropriate drug-related offences of a minor nature",

Noting that, in criminal law, the principle of proportional justice is used to describe the concept that the punishment of a certain crime should be in proportion to the severity of the crime itself,

Recalling the relevant international standards and norms on crime prevention and criminal justice, including the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)[5] and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),[6] as well as norms and standards applicable to children, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules),[7]

Recalling also the annual report of the International Narcotics Control Board for 2007,[8] with its special theme on the principle of proportionality and drug-related offences, in which it is stated that proportionality is a principle that is important in effectively implementing the provisions of the conventions, is internationally recognized and is enshrined in international and regional human rights instruments,

Recalling further the principle that it is the responsibility of Member States to define crimes and determine appropriate punishment,

Aware that substance use disorders are medical and psychological conditions that should receive appropriate treatment,

Noting that, in the context of drug-related offences, conviction or punishment should contribute to the fundamental principles of the United Nations drug control conventions, that is, to protect the health and welfare of mankind,

1. *Invites* Member States to ensure that sanctions provided for under national law for drug-related offences are proportionate to the severity of the offence and take into account the facts and circumstances of each case, giving full consideration to relevant international standards and norms on crime prevention and criminal justice;

2. *Encourages* Member States, in accordance with national laws, to consider a wide variety of aggravating and mitigating factors in the sentencing for drug-related offences, including whether an offender has unmet mental health needs or is unwillingly involved with an organized criminal group and whether violence was used in the commission of the offence;

[4] Art. 3, para. 5.
[5] General Assembly resolution 45/110, annex.
[6] General Assembly resolution 65/229, annex.
[7] General Assembly resolution 40/33, annex.
[8] E/INCB/2007/1.

3. *Also encourages* Member States, in accordance with national laws, to develop or adopt alternative measures to conviction or punishment for drug-related, non-violent offences of a minor nature, and to ensure that there is sufficient discretion for courts to introduce lesser sanctions for such offences;

4. *Invites* Member States and, as appropriate, relevant international and regional organizations, to share data and best practices on sentencing policies and practices, including the use of alternatives to conviction or punishment, and on the application of the principle of proportionality in implementing the drug control conventions;

5. *Invites* the United Nations Office on Drugs and Crime to provide, upon request, legislative assistance and technical advice on the implementation of proportionate sanctions and the adoption of appropriate sentencing policies for drug-related offences;

6. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations.